

House Bill 982

By: Representatives Buckner of the 130th, Thomas of the 100th, McKillip of the 115th, Nix of the 69th, Meadows of the 5th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water
2 resources, so as to change certain provisions relating to permits for withdrawal, diversion,
3 or impoundment of surface waters generally and for farm use; to change certain provisions
4 relating to permits to withdraw, obtaining, or use of ground water; to change certain
5 provisions relating to a policy statement for comprehensive state-wide water management
6 planning, guiding principles, and requirements of plans; to provide an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 5 of Title 12 of the Official Code of Georgia, relating to water resources, is amended
11 by revising subsection (e) of Code Section 12-5-31, relating to permits for withdrawal,
12 diversion, or impoundment of surface waters generally and for farm use, as follows:

13 "(e) Subject to subsection (g) of this Code section, the Board of Natural Resources shall
14 by rule or regulation establish a reasonable system of classification for application in
15 situations involving competing uses, existing or proposed, for a supply of available surface
16 waters. Such classifications shall be based upon but not necessarily limited to the
17 following factors:

- 18 (1) The number of persons using the particular water source and the object, extent, and
19 necessity of their respective withdrawals, diversions, or impoundments;
20 (2) The nature and size of the water source;
21 (3) The physical and chemical nature of any impairment of the water source adversely
22 affecting its availability or fitness for other water uses;
23 (4) The probable severity and duration of such impairment under foreseeable conditions;
24 (5) The injury to public health, safety, or welfare which would result if such impairment
25 were not prevented or abated;

(6) The kinds of businesses or activities to which the various uses are related and the economic consequences;

(7) The importance and necessity of the uses, including farm uses, claimed by permit applicants and the extent of any injury or detriment caused or expected to be caused to other water uses;

(8) Diversion from or reduction of flows in other watercourses in accordance with any state-wide water plan provided by or pursuant to Article 8 of this chapter;

(9) The prior investments of any person in lands, and plans for the usage of water in connection with such lands which plans have been submitted to the director within a reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided, however, that the granting of such permit shall not have unreasonably adverse effects upon other water uses in the area, including potential as well as present use; and

(10) The varying circumstances of each case."

SECTION 2.

Said chapter is further amended by revising subsection (n) of Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm use, as follows:

"(n) In the consideration of applications for permits which if granted would authorize the withdrawal and transfer of surface waters across natural basins, the director shall be bound by any factors related thereto pursuant to Article 8 of this chapter and the following requirements:

(1) The director shall give due consideration to competing existing uses and applications for permits which would not involve interbasin transfers of surface water and, subject to subsection (e) of this Code section, shall endeavor to allocate a reasonable supply of surface waters to such users and applicants; and

(2) The director shall provide a press release regarding the proposed issuance of all permits authorizing such interbasin transfer of surface waters to newspapers of general circulation in all areas of the state which would be affected by such issuance. The press release shall be provided at least seven days before the issuance of these permits. If the director should determine that sufficient public interest warrants a public hearing on the issuance of these permits, he or she shall cause such a hearing to be held somewhere in the area affected prior to the issuance of these permits."

SECTION 3.

Said chapter is further amended by revising subsection (d) of Code Section 12-5-96, relating to permits to withdraw, obtaining, or use of ground water, as follows:

"(d) In adopting any regulations pursuant to Code Section 12-5-95 and in considering permit applications, revocations, or modifications under this Code section, the Board of Natural Resources or the division shall consider:

(1) The number of persons using an aquifer and the object, extent, and necessity of their respective withdrawals or uses;

(2) The nature and size of the aquifer;

(3) The physical and chemical nature of any impairment of the aquifer adversely affecting its availability or fitness for other water uses, including public use;

(4) The probable severity and duration of such impairment under foreseeable conditions;

(5) The injury to public health, safety, or welfare which would result if such impairment were not prevented or abated;

(6) The kinds of businesses or activities to which the various uses are related;

(7) The importance and necessity of the uses, including farm uses, claimed by permit applicants under this Code section, or of the water uses of the area under Code Section 12-5-95, and the extent of any injury or detriment caused or expected to be caused to other water uses, including public use;

(8) Diversion from or reduction of flows in other watercourses or aquifers in accordance with any state-wide water plan provided by or pursuant to Article 8 of this chapter;

(9) A regional water development conservation and sustainable use plan, where applicable; and

(10) Any other relevant factors."

SECTION 4.

Said chapter is further amended by adding new subsections in Code Section 12-5-522, relating to a policy statement for comprehensive state-wide water management planning, guiding principles, and requirements of plans, to read as follows:

"(c.1)(1) As used in this subsection, the term:

(A) 'Donor basin' means a river basin from which a withdrawal or diversion of water occurs in an interbasin transfer.

(B) 'Interbasin transfer' means a withdrawal or diversion of water from one river basin followed by use or return of some or all of that water to a different river basin.

(C) 'Intrabasin transfer' means a withdrawal or diversion of water from a point within a subbasin within a river basin, followed by the use and discharge of some portion of that water into a second subbasin within the same river basin.

(D) 'Raw water interbasin transfer' means an interbasin transfer of untreated water for treatment, use, and disposal in the receiving basin.

(E) 'Receiving basin' means a river basin to which all or a portion of water from another river basin is diverted and returned in an interbasin transfer.

(2) Any state-wide water plan shall provide that, subject to the provisions of this chapter, interbasin transfers may be permitted to meet water needs in areas facing limitations on their water resources, as indicated when the forecasted consumption of water from a specific source approaches the defined consumptive use assessment, as long as the transfer does not unreasonably foreclose opportunities for water use in the donor basin; provided, however, that raw water interbasin transfers shall not be permitted.

(3) Any state-wide water plan shall provide that interbasin transfers of water that occur in connection with mining, conveying, processing, sale, or shipment of minerals or other products transported for further processing or sale shall be exempt from limitations on interbasin transfers provided by this subsection.

(4) Any state-wide water plan shall provide that interbasin transfers of raw water shall not be permitted until consumptive use assessments have been completed for the affected water sources and water development and conservation plans which identify the need for such transfers have been completed for the affected water planning regions.

(5) Any state-wide water plan shall provide that, in evaluating a permit application for a new interbasin transfer, the director shall review and consider:

(A) Donor basin considerations, including but not limited to:

- (i) The quantity of the proposed withdrawal and the stream flow of the donor basin, with special consideration for dry years and low-flow conditions;
- (ii) The current and reasonably foreseeable future water needs of the donor basin, with special consideration for dry years and low-flow conditions;
- (iii) Protection of water quality in the donor basin, with special consideration for dry years and low-flow conditions;
- (iv) Any offsetting increases in flow in the donor basin that may be arranged through permit conditions;
- (v) The number of downstream river miles from which water will be diverted as a result of the transfer; and
- (vi) The connection between surface water and ground water in the donor basin, and the effect of the proposed transfer on either or both;

(B) Receiving basin considerations, including but not limited to:

- (i) Determination of whether or not the applicant's proposed use is reasonable, including consideration of whether the applicant has implemented water conservation practices and achieved reasonable water conservation goals;
- (ii) Assessment of the waste-water treatment capacity of the receiving basin;

(iii) The supply of water presently available to the receiving basin as well as the estimates of overall current water demand and the reasonable foreseeable future water needs of the receiving basin;

(iv) The beneficial impact of any proposed transfer and the demonstrated capability of the applicant to effectively implement its responsibilities under the requested permit;

(v) The impact of the proposed transfer on water conservation;

(vi) The applicant's efforts to explore all reasonable options for use of reclaimed water and recycling of available resources to meet the needs of the receiving basin; and

(vii) Assessment of the adequacy of treatment capacity and current water quality conditions; and

(C) Considerations affecting both basins, including but not limited to:

(i) The economic feasibility, cost effectiveness, and environmental effects of the proposed transfer in relation to alternative sources of water supply;

(ii) The cumulative effects of the current and proposed interbasin transfers in each basin;

(iii) The requirements of the state and federal agencies with authority related to water resources;

(iv) The availability of water for responding to emergencies, including but not limited to drought, in the donor basin and the receiving basin;

(v) The effects, whether beneficial or detrimental, on offstream and instream uses;

(vi) The quantity, quality, location, and timing of water returned to the donor basin, receiving basin, and basins downstream;

(vii) Effects on interstate water use;

(viii) The cumulative effect on the donor basin and the receiving basin of any water transfer or consumptive use that is authorized or forecasted; and

(ix) Such other factors as are reasonably necessary to carry out the purposes of this chapter.

(c.2)(1) Any state-wide water plan shall provide that, subject to the provisions of this chapter, intrabasin transfers may continue to be undertaken to meet such practical water needs as are necessary for a water provider to meet the reasonable needs of users within its service area. If a new intrabasin transfer is to cross the jurisdictional boundaries of more than four counties, it shall not be permitted until consumptive use assessments have been completed for the affected water sources and water development and conservation plans which identify the need for such transfers have been completed for the affected water planning regions.

1 (2) Any state-wide water plan shall provide that intrabasin transfers of water that occur
2 in connection with mining, conveying, processing, sale, or shipment of minerals or other
3 products transported for further processing or sale shall continue to be permitted."

4 **SECTION 5.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law
6 without such approval.

7 **SECTION 6.**

8 All laws and parts of laws in conflict with this Act are repealed.